

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL BEHAYLO,)	
Plaintiff)	
)	
vs.)	CIVIL ACTION NO.: 05-30178-KPN
)	
CALLAWAY GOLF BALL OPERATIONS, INC.,)	
Defendant)	

Consolidated With:

JOHN BETTENCOURT,)	
Plaintiff)	
)	
vs.)	CIVIL ACTION NO.: 05-30179 KPN
)	
CALLAWAY GOLF BALL OPERATIONS, INC.,)	
Defendant)	

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO
PRECLUDE TESTIMONY RELATING TO DAMAGES FOR WHICH PLAINTIFF HAS
FAILED TO PRODUCE HIS TAX AND OTHER RELEVANT FINANCIAL RECORDS**

Defendants have moved to exclude testimony on damages on grounds that they do not have all of Plaintiff's tax returns. Defendant acknowledges that even though the Plaintiff objected to the request for full tax returns at the time of the discovery request, he did produce at his deposition the tax returns which he had available at that time. Further tax information was included in Dr. Moore's economic report. Plaintiff has every intention of providing to the Defendant every tax return that they have available, but was unaware that this was a significant issue to the Defendants until the filing of this motion. Defendants are essentially contending that

the Plaintiffs did not even originally respond fully to the request for production of documents.

This would require a motion to compel by the defendants, not a last minute motion in limine.

THE PLAINTIFF, MICHAEL BEHAYLO
AND JOHN BETTENCOURT
BY THEIR ATTORNEY

Dated: February 22, 2008

/S/ Maurice M. Cahillane
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served this 22nd day of February, 2008, on all parties, by electronic delivery to Jay M. Presser, Esq., Skoler, Abbott & Presser, 1 Monarch Place, Springfield, MA 01144.

/S/ Maurice M. Cahillane
Maurice M. Cahillane, Esquire